



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 11, 1995

Mr. John S. Schneider, Jr.
First Assistant City Attorney
City of Pasadena
P.O. Box 672
Pasadena, Texas 77501

OR95-558

Dear Mr. Schneider:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31931.

The City of Pasadena (the "city") received a request for "all records of complaints against [the requestor] or [his] companies that have been filed or called in to the City of Pasadena." You state that you provided all of the requested information with the exception of the information relating to the name, address or telephone number of the complainant. You claim that this portion of the requested information is excepted from disclosure under the informer's privilege recognized under section 552.101 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

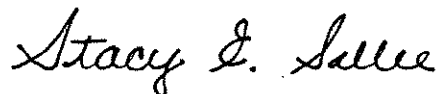
The Texas courts have recognized the informer's privilege. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 (1988) at 3, 208 (1978) at 1-2. The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 (1981) at 2 (citing Wigmore, Evidence,

§ 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. See Open Records Decision Nos. 582 (1990) at 2, 515 (1988) at 4-5. The informer's privilege also applies to the identity of a person who reports a violation of a municipal ordinance if the violation constitutes a criminal offense. See generally Open Records Decision Nos. 355 (1982), 279 (1981). Significantly, however, the privilege protects the content of communications only to the extent that it identifies the informer. *Roviaro v. United States*, 353 U.S. 53, 60 (1957).

We conclude that all information that identifies the informer may be withheld. The Pasadena City Code provides that "it shall be unlawful" for persons who "own or occupy any house, building establishment, lot or yard in the city" to allow the accumulation of stagnant water, filth, or weeds, or to permit insects that can transmit disease or rodents to remain. Pasadena City Code, art. IV, §§ 15-56 - 15-60. The complainant reported violations of these code provisions. Therefore, the complainant reported a possible violation of the Pasadena City Code to the appropriate enforcing authority, the city, and the city may withhold all information that reveals the informer's identity.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Government Section

SES/KHG/rho

Ref.: ID# 31931

Enclosures: Submitted documents

¹We assume for purposes of this ruling that the requestor does not know the identity of the complainant. Once an individual who would have cause to resent the communication knows who the informer is, the informer's privilege is inapplicable. See Open Records Decision No. 202 (1978) at 2 (quoting *Roviaro*, 353 U.S. at 60).

cc: Mr. Charles J. Hoy
P.O. Box 5354
Pasadena, Texas 77508
(w/o enclosures)